

19-518 COLORADO DEPARTMENT OF STATE V. BACA

DECISION BELOW: 935 F.3d 887

LOWER COURT CASE NUMBER: 18-1173

QUESTION PRESENTED:

Like most States, Colorado requires its presidential electors to follow the will of its voters when casting their Electoral College ballots for President. In the 2016 Electoral College, one of Colorado's electors violated Colorado law by attempting to cast his presidential ballot for a candidate other than the one he pledged to vote for. Colorado removed him as an elector, declined to accept his ballot, and replaced him with an alternate elector who properly cast her ballot for the winner of the State's popular vote, consistent with Colorado law. The removed elector later sued Colorado for nominal damages.

The questions presented are:

1. Whether a presidential elector who is prevented by their appointing State from casting an Electoral College ballot that violates state law lacks standing to sue their appointing State because they hold no constitutionally protected right to exercise discretion.

2. Does Article II or the Twelfth Amendment forbid a State from requiring its presidential electors to follow the State's popular vote when casting their Electoral College ballots.

CONSOLIDATED WITH 19-465 FOR ONE HOUR ORAL ARGUMENT.

CERT. GRANTED 1/17/2020